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# UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF NEW YORK

ROMEO & JULIETTE LASER HAIR REMOVAL, INC. d/b/a ROMEO & JULIETTE HAIR REMOVAL,

Plaintiff,

-against-

ASSARA I LLC, d/b/a ASSARA LASER CENTER NYC, ASSARA LASER, et al.,

08 Civ. 0442 (TPG)

ECF CASE (electronically filed)

efendants.		

# AFFIRMATION IN SUPPORT OF DEFENDANTS' MOTION FOR SUMMARY JUDGMENT AND IN OPPOSITION TO PLAINTIFF'S MOTION FOR PARTIAL SUMMARY JUDGMENT

WILL SHUMAN, an attorney admitted to practice before this Court and the Courts of the State of New York, affirms under the penalties of perjury, as follows:

1. I am a member of the Bar of this Court, counsel for each of the defendants and a managing member of Assara I LLC, a New York limited liability company (the "company"). I make this affirmation in support of the defendants' motion, pursuant to Fed. R. Civ. P. 56(b) for summary judgment dismissing the complaint, with prejudice, in its entirety, and in opposition to the motion of plaintiff Romeo & Juliette Laser Hair Removal, Inc. ("Romeo"), pursuant to Fed. R. Civ. P. 65(a), seeking an order granting

partial summary judgment in favor of Romeo, an order setting a discovery schedule on the issue of damages, and a permanent injunction against the defendants.

- 2. In March 2006, the company began conducting business in New York City, by marketing, offering and performing laser cosmetic services in the form of laser hair removal, laser spider vein removal, and laser skin-rejuvenation services that reduce and prevent wrinkles, acne and acne scarring. The company has never operated under the name Manhattan Laser Hair Removal; the text contained on the company's website stating that term is merely descriptive of the company's geographic location.
- The company is a limited liability company organized and formed under the laws of New York. Each of the individual defendants is a limited liability member of the company.
- 4. The laser cosmetic services business industry in New York City is highly-competitive an internet search on Google for the term "laser hair removal NYC" yields a listing of both paid-for Sponsored Links and local business results of over twenty businesses providing laser hair removal in Manhattan alone. Outside of special sales promotions, there is little price differentiation among competitors for laser hair removal services. The prominent laser manufacturers provide the purchasers of their laser systems with a recommended price list, which itemizes treatment prices by areas of a client's body. From inception to date, the company's marketing strategy directs marketing activity at building a niche customer clientele and building strong brandrecognition, in each case, using a high-emphasis on development and use of its brand name and logo.

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- 5. The company actively has used, and continues to use, the mark "ASSARA | BEAUTY PERFECTED" and "ASSARA | LASER HAIR REMOVAL" to advertise and market its business to the New York City public at large. The company has expended several hundreds of thousands of dollars through the use of print, internet and direct forms of marketing, each of such marketing material prominently display's the company's marks. The company makes targeted and affirmative efforts by drawing a distinction between its brand business and those of its competitors. The company values this as its competitive edge.
- 6. The company has pioneered and is, to date and to my knowledge, one of only two New York City laser hair removal treatment centers that offers a treatment package by which a client can receive up to and including a full-body treatment for \$599 per month. The company's Unlimited "Full Body" Treatment Program is a membership-style treatment program by which enrolled clients can receive as multiple laser hair removal treatments for a flat rate of \$599 per month. A copy of our published press release announcing the creation of this program is attached hereto as Exhibit A. This program is marketed to the New York City market at-large as the most cost-effective program to treat many body parts. To give perspective to the client dollar savings, the following is a list of approximately pricing for individual treatment sessions, by body part: full-legs -- \$ 599 (per session), back or chest -- \$499 (per session), underarms -- \$199 (per session).
- 7. The company has spent considerable time, effort and invested hundreds of thousands of dollars to promote its Unlimited Treatment Program in the New York City market and to associate its brand and marks with the program. A promotion of the

Unlimited Treatment Program is on virtually each piece of marketing material generated by the company, including for print and internet advertisements. The company's name and brand have become closely associated with the program.

- The company engages in newsprint and magazine advertising
- 9. The company also engages and internet advertising, including the hosting and maintaining of a website. The homepage of the company's website can be found at the url www.assaralaser.com. Having expended hundreds of thousands of dollars in marketing endeavors, our advertisements that **are not** Sponsored Link advertisements have appeared at least three prominent Manhattan newspapers, were played as local advertisement "spots" for a national radio broadcasting station, include editorial reviews inside a local magazine.
- 10. Except for infrequent updates to the www.assaralaser/promotions webpage located on the company's website, there have been no material modifications of the website, since it was launched in its current form in late-April 2007.
- 11. The company's website does not, and never has, contained the terms 
  "Romeo & Juliette" or "Romeo and Juliette Laser" either displayed in visible text, or in 
  the website's "meta-data," which meta-data will contain text that is not visually 
  displayed, but would likely be used by search engines to determine whether the website is 
  displayed as a relevant search result from an internet search engine's user.
- 12. Attached as Exhibit B-1 is a printed page displaying the homepage of the company's website. Attached as Exhibit B-2 is a printed page displaying the source code, in HTML format, of the company's website. Attached as Exhibit B-3 is a printed

page displaying the header bar and reachlocal mirror website, and a display Sponsored Link for the company.

- 13. In late-April 2007, company began internet advertising on Google by utilizing the services of ReachLocal, an online advertising service. At the time, the company actively employed two persons, me and one laser specialist. My job duties were to conduct the general management of the business and its to supervise and direct the employee. My job duties encompassed many of the day-to-day operations of the business, including answering all telephone calls derived from print and internet marketing and converting those telephone leads into in-person appointments. The laser specialist's job duties were to consult with and treat clients, to manage client scheduling and to maintain high-standards of client contact and customer service.
- 14. Google AdWords ("AdWords") is Google's online text advertising program. AdWords permits a business to create ads that will be displayed to people already searching online for information related to such business. A text advertising campaign on AdWords will display a business's advertisement in the Sponsored Links section of a search results page.
- 15. The Sponsored Links for any given advertiser displays three things (collectively, the "Sponsored Link search result"): a single-line "headline," (which is embedded a hyperlink to a selected landing page), a two-line description of the advertisement, and a website url for the advertising business. The aggregate of the search terms and keywords and their corresponding sponsored link search result comprise the advertising campaign.

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- advertiser to engage in trademark infringing activities through its AdWords campaign. It additionally provides trademark complaint procedures with respect to use of trademarked terms in AdWords campaigns and will investigate claims filed by trademark owners against any AdWords advertisers. Further, the Google Editorial Policies state that Google will disapprove of and remove any AdWords text constituting unauthorized trademark use. The Google Editorial Policies state that Google will not permit an advertiser to engage in trademark infringing activities through its AdWords campaign. Further, "as a courtesy to trademark owners," Google created a trademark complaint procedure, which is readily accessible through their website. Google further states in the Google Editorial Policies that "Google takes allegations of trademark infringement very seriously and, as a courtesy, we're happy to investigate matters raised by trademark owners. You are not required to be a Google AdWords advertiser in order to send the complaint."
- The company conducts its Google text advertising through ReachLocal.
   ReachLocal is an online advertising service that creates and manages internet advertising

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campaigns. In exchange for a monthly budget fee, which is designated and paid for by the client, ReachLocal, through its consultants and technologies, selects keywords and search terms, which when entered by a user on the ReachLocal vendor search engines, will trigger advertised Sponsored Links.

- 19. ReachLocal utilizes vendor contracts with certain prominent search engines, among them Google, MSN, Yahoo, AOL and Ask.com, to display the Sponsored Links on the search engine's search results page for a searching user when that user's search term inquiry matches the campaign's keywords or search terms.
- 20. A click on the hyperlink associated with the Sponsored Link's headline directs the user's browser to a replica "mirror" website that is hosted by ReachLocal. The mirror website contains exactly the same data as the website on which it is based, except in two respects: (1) each mirror website contains a grey colored field at the top of the page that spans the entire width of the page and (2) each mirror website contains a phone number created by ReachLocal, which automatically forwards calls to the client business's business phone number. The grey colored field at the top of the mirror webpage displays within itself the name of the business, the business's phone number and the headline and the advertising description that appeared in the Sponsored Link advertisement on the search engine's search results page.
- 21. Exhibit B to the affidavit of Christian Karavolas in support of plaintiff's motion for summary judgment purports to be a screen shot of the mirror site hosted by ReachLocal. However, any relevant text search made on Google's search engine displays the exact same company advertisement, which displays as:

Assara Laser Center NYC Unlimited Laser Hair Removal \$599/Month. Free Consultations. www.assaralaser.com New York, NY

Romeo's claim regarding the purported existence of the screenshot of the 22. company's use of its mark is inconsistent with the Google Editorial Policies and inconsistent with our ReachLocal advertising campaign management. In the course of our internet advertising, neither the company, nor any of its employees, have ever authorized or directed the use of any competitor's name, including the name "Romeo and Juliette" or "Romeo and Juliette Laser" in our advertising campaigns with ReachLocal. If such a display actually existed (which is extremely unlikely), it does not currently exist, and neither the company nor I have been aware of such an existence. Further, Romeo provides no information to the defendants to determine whether any damages could exist, and if so, the time frame in which they would have accrued. The first screenshot displays a clock showing the time as 12:56 p.m., and the second screenshot displays a clock showing 5:10 p.m. The screenshots appear to be taken from two different computers - as the graphical display of the windows "toolbar" is different in each shot. Neither shot provides any evidence of the date on which they were taken. At best, they comprise two "snapshots" of two indeterminate points of time. Without knowing how and when the screenshots were purported to be taken, and some authentication of the data within the shots, the two screenshots do not provide any independent basis to determine a relevant period of inquiry.

- 23. Neither Romeo, nor any of its officers, employees or agents indicated to the company, at any time other than through the filing of the complaint in this action over seven months after the earliest date in the complaint that the alleged miscounduct could have taken place, Romeo believed that the company's internet campaign utilized a Romeo mark.
- 24. Brand name distinction and the company's own association with the Unlimited Treatment Program has been and remains a keystone to the company's current and future marketing plans.
- 25. Neither the company, nor any of its employees, have authorized the use of or utilized any competitor's trademark, including, but not limited to the Romeo marks in any advertising campaign.
- 26. Neither the company, nor any of its employees, have held the company out to be sponsored or endorsed by Romeo & Juliette Laser.
- 27. Neither the company, nor any of its employees, have indicated to the company's clients or potential clients that Romeo wishes to refer its clients to the company for laser hair removal services, or that Romeo & Juliette otherwise approves of the services provided by the company.
- 28. Neither the company, nor any of its employees, has ever attempted to create the impression to the public that plaintiff sponsors or approves of the laser hair removal services offered by it.
- 29. WHEREFORE, I respectfully request that the Court deny plaintiff's motion for partial summary judgment in its entirety and grant the defendants' motion for summary judgment dismissing the complaint, with prejudice, in its entirety.

Dated: New York, New York July 8, 2008

WILL SHUMAN, ESQ. (WS 3237) Counsel for defendants

/s/ will shuman

235 West 48th Street Apartment 29D New York, NY 10036 (646) 964-5204 TO: Butler, Fitzgerald, Fiveson & McCarthy David K. Fiveson, Esq. David J. McCarthy, Esq. 36 West 44<sup>th</sup> Street, Suite 816 New York, New York 10036 (212) 615-2215

> Attorneys for Plaintiff Romeo & Juliette Laser Hair Removal, Inc., d/b/a Romeo & Juliette Hair Removal

# **EXHIBIT A**

# ASSARA BEAUTY PERFECTED

# FOR IMMEDIATE RELEASE

# Contact:

Jay Shuman, Vice President Assara Laser Cosmetic Services, LLC Ph: 212 956 2666

Email: jay@assaralaser.com

# Assara Laser Offers an Unlimited Laser Hair Removal Treatment Package for \$599 per Month

New York, N.Y. — Tuesday, March 6, 2007 — Assara Laser Cosmetic Services — Manhattan's premier laser hair removal spa — announces a new laser hair removal treatment package. Assara Laser now offers clients its "\$599 Unlimited Package." For a monthly charge of \$599, clients can have laser hair removal treatments on as many areas and body parts as they choose.

The Unlimited Package also allows Assara Laser to give clients an all-inclusive quote on their treatment. "This is an advantage that most laser centers are unable to offer their customers," said co-owner Dr. Sam Tayar. "Clients sign up for the 'membership style' program and pay the first and last month's payment. After that, there's no commitment."

"Assara Laser has always committed itself to offering increased package and pricing flexibility to our clients," said Dr. Tayar. "We saw so many of our clients returning to us after their first treatment. They were thrilled with the treatment results and wanted to include more areas of their body in their treatment sessions. We wanted to offer a treatment plan that allowed our clients the ability to do this. The Unlimited Package protects clients from having to spend an excessive amount of money to reach their beauty goals. Now, if a client seeks to include more areas of their body in their treatments, they'll pay not a dollar more."

Assara Laser hopes that it will optimize customer service across the industry through this innovating pricing system. Dr. Tayar explains: "We're rolling out the '\$599 Unlimited Package' only in the Manhattan market, and only for a limited time. We are carefully monitoring how clients react. If the anticipated excitement continues, we will use the Unlimited Package to make laser hair removal treatments affordable in other metropolitan area markets." Assara Laser is currently in contract to open further locations in Washington, DC, and Miami, Fl.

Assara Laser is proud to utilize the state-of-the-art Apogee Elite, which is manufactured by leading laser manufacturer Cynosure (NASDAQ: CYNO). Since its U.S. FDA clearance, Cynosure's Apogee Elite has become a leader in the laser hair removal market because of its ability to treat not only unwanted hair on all skin types, but also provide an array of cosmetic treatments. With the ability to treat all skin types using either the Alex or the YAG lasers, the Apogee Elite has become the gold standard for laser hair removal.

Assara Laser is located at 7 West 51st Street, 2nd Floor, New York, NY 10019, across the street from Rockefeller Plaza. Assara Laser is 9a-7p Mon-Fri. For more information, please call (212) 956 2666 and visit www.assaralaser.com. Assara Laser offers treatments for laser hair removal, cellulite removal, facial rejuvenation, and spider vein removal using only state-of-the-art FDA approved technology and highly-skilled specialists.

# **EXHIBIT B-1**

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# Say Goodbye to Shaving, Tweezing and Waxing and Hello to Smooth Hair-Free Skin.



Painless, quick, and effective hair removal is within your reach at **Assara** Laser. We are the answer to problems of stubble and cuts from regular shaving, and painful waxing and plucking.

Assara Laser will remove your unwanted hair from anywhere on your face and body. Unlike many of our competitors, we can achieve fantastic results regardless of your skin color, and regardless of whether you have a tan. Our highly skilled certified technicians will ensure that you enjoy a wonderful experience with us.

Stop here. There's no need to read further. Call us now, and let us explain how we can help you look and feel great. Ask about our money saving treatment packages, and payment plans.

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# **EXHIBIT B-2**

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# **EXHIBIT B-3**

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Web

Personalized Results 1 - 10 of about 486,000 for laser facial. (0.21 seconds)

# Skin Rejuvenation and Resurfacing Cosmetic Procedure Information

Laser resurfacing can improve the appearance of fine lines and wrinkles of the ... the skin is not moving, and deepen with facial movements or expressions. ...

www.plasticsurgery.org/patients\_consumers/procedures/SkinResurfacing.cfm - 55k -

Cached - Similar pages - Note this

# Facial Laser Rejuvenation, laser, information, photographs, cause ...

This patient information and photograph on Facial Laser Rejuvenation is provided by John L. Meisenheimer, M.D. a board certified Dermatologist and skin care ... www.orlandoskindoc.com/laser\_photorejuvenation.htm - 9k - Cached - Similar pages - Note this

Laser Facial Treatments - Los Angeles IPL Photo Facial - Southern ...

Photo Facial treatments use Intense Pulse Light (IPL) techniques delivering light energy to stimulate your skin to produce collagen and reduce fine lines, ... www.marinaplasticsurgery.com/plastic\_surgery/photo\_facial.cfm - 19k -

Cached - Similar pages - Note this

# UCSF News Office - NEW LASER TREATMENT REJUVENATES FACE, HEALS FASTER

The traditional laser for facial rejuvenation, the carbon dioxide (CO2) laser has been used by UCSF for the past five years. The CO2 laser removes upper ... pub.ucsf.edu/newsservices/releases/200401135/ - 12k - Cached - Similar pages - Note this

# CareFair.com - Facial Laser Peel Treatment. Is it Worth it?

What's involved in a **facial laser** peel treatment and why it may or may not be right for you, www.carefair.com/Skincare/Treatments/**Facial\_Laser\_**Peel\_1797.html - 45k - Cached - Similar pages - <u>Note this</u>

### Laser Facial Hair Removal

Permanent Facial hair removal by laser medical experts is more effective and costs less than electrolysis while ending the need for tweezing, plucking, ...

www.idealimage.com/services/facial\_hair.php - 40k - Cached - Similar pages - Note this

# Laserscope - acne laser treatment, photo rejuvenation skin care

Descriptions: With this process solar lentigines and facial telangiectasia are treated individually with the Aura/Gemini laser. The entire face is "painted" ... www.laserscope.com/aesthetic/consumers/condition.html - 78k - Cached - Similar pages - Note this

# Laser resurfacing for facial acne scars

Jordan RE, Cummins CL, Burls AJE, Seukeran DC. Laser resurfacing for facial acne scars. Cochrane Database of Systematic Reviews 2001, Issue 1, Art, No. www.cochrane.org/reviews/en/ab001866.html - 23k - Cached - Similar pages - Note this

# NEW YORK PLASTIC SURGEON - Mini Face Lift - New York - Long Island ...

The contemporary approach to restoring and enhancing the face is the signature of the New York Center for Facial Plastic and Laser Surgery. ...

www.newyorkfacialplasticsurgery.com/ - 48k - Cached - Similar pages - Note this

#### Facial Plastic and Aesthetic Laser Center

If you are looking into facial plastic surgery or facial treatments, come see what Dr. Gentile and the staff of the Facial Plastic and Aethetic Laser ...

www.facialplastics.org/ - 40k - Cached - Similar pages - Note this

Searches related to: laser facial

laser facial hair removal laser facial resurfacing

Sponsored Links

# Assara Laser Center NYC

Unlimited Laser Hair Removal \$599/Month. Free Consultations. www.assaralaser.com

# Photo Facial Spa

Eliminate Wrinkles & Age Spots and Get Youthful Skin at Sleek MedSpa. www.SleekMedSpa.com New York, NY

# Beauty Plus Aesthetic NYC

Photo Facials & Skin Resurfacing, Skin Tightening & Skin Tag Removal, www.beautyplusaesthetics.com New York, NY

# Laser Facial At Home

Up to 20 Years Younger in 8 weeks 80% Less Lines, Wrinkles & Others www.lightstim.com

# Isolaz Laser Therapies

Serving All of Suffolk & East End (631) 839-4022 www.isolaz-acne net New York, NY

# The Skin Spa - Midtown

NYC's Top Rated Medical Spa Get a Free \$100 Gift Card www.loveyourskinspa.com New York, NY

# Skin Rejuvenation Bronx

Lasers, Peels, Wrinkle Removal Call Free Skin Consultation Today www.StudioEsthetique.com

# Laser Treatments

From Cosmetic Treatments To Chemical Peels. Call Us Today! www.SkinWorksNy.com. New York, NY Case 1:08-cv-00442-TPG Document 21

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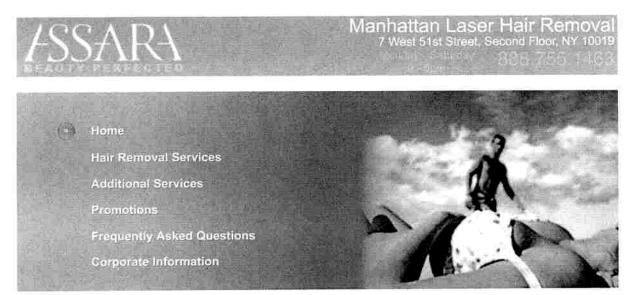
Contact: Assara Laser Local: (888) 755-1463 Send E-Mail
Assara Laser Center NYC - Unlimited Laser Hair Removal - \$599/Month. Free Consultations.

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Check out our Ads in Metro, AM NY, The Village Voice, and on Zoom Media



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# **EXHIBIT C**



#### AdWords Help Center

Google Help > AdWords Help > Text ads

# Change Language: | English (US)

# AdWords Advertising Policies

#### Search AdWords Policies

Example: pop-up or spelling policy

Search Policies

# Select your ad type:

Text ads

Editorial & Format »

Content »

Link »

View all policies »

Double Serving

Advertising in China

AdWords Terms & Conditions

Invalid Clicks

Google Privacy Policy

Policy Home > Text ads

View all policies: Text ads

#### **Editorial & Format**

#### Accurate Ad Text

#### Accurately represent your product or service.

Your ads and keywords must directly relate to the content on the landing page for your ad. When users see your ad, they should be able to understand what kind of product, service, or other content they will find on your site. Products or services promoted in your ad must be reflected on your landing page; ads can be disapproved if a promoted product is not offered or available for sale as promised.

As a basic rule, use clear, descriptive, and specific ad content that highlights the differentiating characteristics of your product/service. You can distinguish your ad by including your company name, line of business, or by highlighting one specific product. If you offer a local service or product, you might want to indicate your location in your ad

If your alterations business only services New York, you might include 'New York' in your ad text, mention your company's particular specialty (such as 'experts in reweaving fine garments'), and link to a page that displays this service.

# Capitalization

# Use standard capitalization.

- Don't use excessive capitalization such as 'FREE' or 'GOOGLE ADWORDS.'
- You can choose whether or not to capitalize the first letter of each word in your ad. Capitalization of the first letter of each word within your display URL is also permitted.

Correct because:
Necessary capitalization for the acronym, 'CPC.'
Acceptable capitalization in display URL.
Incorrect because:
Excessive capitalization of 'EFFECTIVE' and 'NOW.'
Excessive capitalization of 'GOOGLE.COM' in display URL.

#### **Character Limits**

# Stay within the ad character limits.

Your intended headline, text, and URL must fit within the limits below and not be cut off. Please keep these ad text limits in mind when planning your ads:

- · Ad titles are limited to 25 characters.
- The two description lines and display URL are limited to 35 characters each.
- Languages using double-byte characters (such as Chinese, Japanese, Korean, Hebrew, and Arabic) can have 12 characters in the title, 17 characters for each

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line of ad text, and 35 characters for the display URL (only single-byte characters are allowed in the display URL field).

Note that if you run out of characters, the display URL field cannot be used as another line of ad text. Similarly, the third line must fit completely within the character limit and cannot lead into the display URL with phrases such as 'See this site.'

## Competitive Claims

#### Support competitive claims.

Competitive claims are statements implying that your product/service is better than a competitor's. If your ad text contains competitive language regarding other companies, specific support for this claim must be displayed on the landing page for your AdWords ad

You can offer support for your claim in a variety of ways such as a chart or table that compares the features and/or prices of your product versus your competitor's product or a competitive analysis discussing why your product is superior.

For example, ad text that states 'Better than AdWords' would be considered a competitive claim and would require support on the website. If the landing page includes a competitive analysis of the advertised service versus AdWords, this claim would be acceptable and the ad could be approved.

# **Grammar & Spelling**

#### Use correct grammar and spelling.

- Your ad text must be in logical sentence or phrase form. This includes using grammatically correct spacing between words and around punctuation.
- Ads must contain correct spelling. The only exceptions are commonly misspelled words or spelling variations that the majority of users would recognize and understand.

Correct Ad	Correct because:
Google AdWords Ads Advertising at affordable costs Visit & then see if right for you! adwords.google.com	Ad uses appropriate spacing, grammar, and symbols.
Incorrect Ad	Incorrect because:
	Ad is missing spaces in title.
GoogleAdWordsAds Advertising at affordible costs.	Misspelled word: 'affordable' is shown as 'affordible'
Sea how our prices works for you! adwords google.com	Wrong word: 'Sea' is used instead of 'See'
	Incorrect grammar: wrong verb tense in the phrase 'prices works.' It should read 'prices work.'

# Implied Affiliation

# Don't imply inaccurate affiliation or partnership.

 Your ads may not imply an affiliation, partnership, or any special relationship with Google. Ads and sites cannot contain language that is likely to cause confusion as to the association between Google's services and your services.

Examples of inaccurate affiliation:

'Google special offer!'

'Recommended by Google'

'Sponsored Google site'

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Review our list of trademarked Google terms and logos and the rules regarding their use.

 Your ads also may not imply an affiliation with any publisher or publisher's website in the Google Network.

> Example of inaccurate affiliation: 'Special offer from this website!'

#### Inappropriate Language

# Don't use inappropriate language.

Your ad (including your display URL) cannot contain offensive or inappropriate language. This also applies to misspellings or other variations of inappropriate language.

# Prices, Discounts, & Free Offers

# Support advertised prices, discounts, and free offers.

If your ad includes a price, special discount, or 'free' offer, it must be clearly and accurately displayed on your website within 1-2 clicks of your ad's landing page.

Prices in your ad text must be accurate. Prices can also apply to bulk purchases. For free offers, it is acceptable if the user can infer that the product is indeed free, even if the word 'free' does not appear along with that product or service.

#### Examples:

If you mention that you are selling socks for 20% off in your ad text, your destination URL should link to a page that clearly displays socks at the discounted price.

Other examples that must be supported include 'Save \$20 on first purchase,' 'free hat with purchase,' and 'DVDs for \$5 each.'

#### **Proper Names**

#### Don't use proper names as keywords.

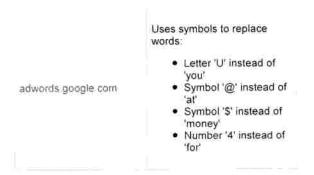
Sites that promote people-finder services, detective agencies, or other similar services are not permitted to use proper names in ad text or as keywords.

# **Punctuation & Symbols**

# Use standard punctuation and symbols.

- . Don't use repeated, unnecessary, or gimmicky punctuation or symbols.
- · Your title may not contain an exclamation point.
- Your entire ad text may only contain one exclamation point in total.
- The use of symbols, numbers, and letters must adhere to the true meaning of the symbol.

Correct Ad	Correct because:
	No exclamation point in title
Advertise with Google Want fast results? Create your campaign	Question mark used appropriately.
today! adwords.google.com	Only one exclamation point used in entire ad text.
Incorrect Ad	Incorrect because:
U Can Use Google AdWords!	Exclamation point in title.
Want *fast* results @ low cost??	Gimmicky use of asterisks.
Make \$ now 4 your business.	Repeated question marks on second line.



# Repetition

# Don't use unnecessary repetition.

Avoid gimmicky repetition of words or phrases

Correct Ad	Correct because:		
Google AdWords CPC Ad Campaigns: Fast, easy, and effective! adwords google.com	Ad is clear without repetition.		
Incorrect Ad	Incorrect because:		
Google AdWords Ads Results are fast, fast, fast!	Gimmicky repetition in phrase 'fast, fast,'		
Results are fast, fast, fast! adwords.google.com	Unnecessary repetition of second line of text.		

#### Superlatives

# Avoid using generic superlatives.

If your ad contains the comparative or subjective phrases 'best' or '#1,' verification by a third party must be clearly displayed on your website. Third-party verification must come from someone or some group unrelated to your site; customer testimonials do not constitute third-party verification.

For example, if an ad claims to be the 'Best of the Web,' the site must display third party verification of the claim. A Forbes Magazine seal indicating this site received a 'best of the web' award would be acceptable, and the ad would then comply with this policy.

# Target Specific Keywords

## Target relevant and specific keywords.

Use specific keywords that accurately reflect your products, services, or the site you're promoting.

If you offer a location-specific product or service, you might consider using keywords that reflect your location.

#### Example:

A New York apartment rental agency would not be allowed to run on only the overly general keyword 'rentals.' The agency should instead use keywords such as 'New York rental agency' or 'find NY apartments.'

## Trademarks

# Adhere to our trademark policies.

Google recognizes the importance of trademarks. As a courtesy to trademark owners, we have created trademark complaint procedures with respect to use of trademarked

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terms in Google AdWords campaigns or in domain names participating in our AdSense for Domains program

Trademarks are territorial and apply only to certain goods or services of the trademark owner. Therefore, different parties can own the same mark in different countries or different industries. Accordingly, in processing complaints, Google will ask the trademark owner for information regarding where the mark is valid and for what goods or services.

# **Trademark Complaints**

As a provider of space for advertisements, Google is not in a position to arbitrate trademark disputes between advertisers and trademark owners. As stated in our Terms and Conditions, advertisers are responsible for the keywords and ad text that they choose to use. Accordingly, Google encourages trademark owners to resolve their disputes directly with the advertiser, particularly because the advertiser may also be using your trademark on similar ads in other programs.

However, Google takes allegations of trademark infringement very seriously and, as a courtesy, we're happy to investigate matters raised by trademark owners. You are not required to be a Google AdWords advertiser in order to send a complaint.

If you have concerns about the use of your trademark in AdWords ads:

- File a trademark complaint in the U.S., Canada, U.K., and Ireland.
- File a trademark complaint outside the U.S., Canada, U.K., and Ireland.

If you have concerns about the use of your trademark in a parked domain name:

File an AdSense for Domains trademark complaint.

Once Google receives all of the required information from the trademark owner, the claim will be investigated, and appropriate action will be taken.

Please note: Such trademark investigations will only affect ads served on or by Google. In the case of an AdSense for Domains trademark complaint, an investigation will affect only the domain names of sites in our AdSense for Domains program. Additionally, Google's trademark policy does not apply to search results, only to sponsored links. For trademark concerns about websites that appear in Google search results, the trademark owner should contact the site owner directly.

#### Authorization to Use Trademarks in Your Ad Campaign

If we have received and processed a complaint for a trademark, advertisers seeking to use the mark in the countries and industry of the trademark owner will have their keywords and/or ad text disapproved. For ads targeting the U.S. and Canada, the use of the trademark in ad text will be disapproved; outside the U.S. and Canada, use of the trademark may be disapproved as a keyword or in ad text or both, depending on the request of the trademark owner.

If an advertiser has been restricted from using a trademark and disagrees with the owner's assertion of exclusive rights or believes he has a right to use the mark, we encourage the advertiser to contact the trademark owner directly and request permission to use the trademark. Only if the trademark owner provides Google with an authorization will the advertiser be able to use the trademark in his ad campaign. Please note that the trademark owner may change or rescind the authorization at any time.

# Unacceptable Phrases

# Don't use unacceptable phrases.

Avoid call-to-action phrases such as 'click here' that could apply to any ad, regardless of content. This includes phrases in the third line of your ad that lead into your display URL, such as 'See this site.'

This type of generic phrase has been found to add little value to your ad's message. The limited text space should be used for concise, informative language that sets you apart from your competition.

Correct Ad	Correct because:
Target your Ads w/AdWords Create an AdWords account today! Visit Google.com to learn more. adwords.google.com	Uses unique call-to-action phrases. 3rd line is independent from display URL
Incorrect Ad	Incorrect because

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> Unacceptable phrase: 'click here'

3rd line continues into the display URL

Google AdWords For an account - click here To learn more, just visit us at: adwords.google.com

#### Content

#### Academic Aids

Don't promote unacceptable academic aids.

Advertising is not permitted for academic aids. This includes 'test-taking' services in which someone takes an exam for someone else and academic paper-writing services providing custom/pre-written theses, dissertations, etc.

#### Aids to Pass Drug Tests

Don't promote aids to pass drug tests.

Advertising is not permitted for the promotion of products designed to help someone pass a drug test. This includes products such as drug cleansing shakes and urine test additives.

#### Alcohol

Don't promote unacceptable alcohol products.

Restrictions on the promotion of alcohol vary based on local regulations and type of alcoholic product:

- · Ads are not permitted to directly promote hard alcohol and liqueurs. This means that hard alcohol cannot be promoted in ad text or be the purpose of your site (occupying a significant portion of your site).
- · Advertisements for beer may target countries where such ads comply with local regulations. However, beer ads may not target the United States, U.S. territories (American Samoa, Guam, Puerto Rico and the U.S. Virgin Islands), India, Pakistan, Sri Lanka, Thailand, and Malaysia.
- Advertisements for champagne and wine are allowed everywhere that such advertisements comply with local regulations.
- Since we consider beer, wine, and champagne to be products intended for the sale and consumption by adults, ads promoting these products will be given a Non-FamilySafe status
- · Please note that some jurisdictions may enforce any of these additional regulations:
  - require government permits for the advertisement of alcoholic beverages.
  - prohibit advertisements for beverages with a certain level of alcohol content.
  - and/or require certain disclaimers in advertisements for alcohol beverages.

It is the advertiser's responsibility to comply with all local laws.

#### **Anabolic Steroids**

#### Don't promote anabolic steroids.

Advertising is not permitted for anabolic steroids, muscle-enhancing stacks and cycles. bodybuilding steroid supplements, and related content, irrespective of an advertiser's claims of legality.

#### 'Anti' and Violence

Don't promote violence or advocate against a protected group.

Ad text advocating against any organization, person, or group of people is not permitted

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Advertisements and associated websites may not promote violence or advocate against a protected group. A **protected group** is distinguished by their:

- · Race or ethnic origin
- Color
- · National origin
- Religion
- Disability

- Sex
- Age
- Veteran status
- · Sexual orientation/Gender identity

#### **Automated Ad Clicking**

#### Don't promote automated ad clicking.

Advertising is not permitted for the promotion of automated ad clicking products and services.

# **Bulk Marketing**

#### Don't promote bulk marketing products.

Advertising of bulk marketing products is not permitted if the stated or implied use of the following products is unsolicited spam:

- · Email fists that are not opt-in
- · Bulk email software
- · Bulk messaging

# Copyright

#### Don't promote copyrighted content without permission.

Copyrights are important business assets in which the copyright holder maintains exclusive rights. You must not use AdWords to promote the copying or distribution of copyrighted content for which you don't have consent from the copyright holder and which is not otherwise permitted by law.

To learn more about how we handle copyright issues within the AdWords program, view the Digital Millennium Copyright Act and our copyright policy and procedures.

# Counterfeit Designer Goods

# Don't advertise counterfeit designer goods.

Advertising is not permitted for products that are replicas or imitations of designer goods. A replica good contains the trademarked name or logo of a designer brand but is not made by that brand.

# **Data Entry Affiliates**

# Don't advertise for data entry affiliate programs.

Advertising is not permitted for the promotion of data entry affiliate programs. This includes ads directing users to sites that promote the creation/data entry of more ads that direct users to the same site

There are no exceptions to this policy, which is intended to protect both advertisers and AdWords users.

# Dialers

# Don't promote dialer-related products.

A dialer is a program that will cut your chosen internet connection and establish a new connection to a premium rate number. In order to protect our users and maintain the quality of advertising we display, we don't allow ads and sites that require or solicit the use of a dialer program.

# Drugs and Drug Paraphernalia

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#### Don't promote drugs and drug paraphernalia.

Advertising is not permitted for the promotion of drugs and drug paraphernalia. This includes drug accessories, illegal drugs, and herbal drugs such as salvia and magic mushrooms.

#### e-Gold

#### Don't promote e-gold or related products.

Advertising is not permitted for e-gold and e-gold related content. This includes, but is not limited to, e-gold exchange, e-gold investment, and e-gold accounts.

#### **Fake Documents**

#### Don't promote fake documents.

Advertising is not permitted for the promotion of false documents such as fake IDs. passports, social security cards, immigration papers, diplomas, and noble titles

#### Fireworks and Pyrotechnic Devices

#### Don't promote fireworks or pyrotechnic devices.

Advertising is not permitted for the promotion of fireworks and pyrotechnic devices.

#### Gambling

#### Don't promote online gambling or related sites.

Advertising is not permitted for the promotion of online casinos and gambling activities.

This includes, but is not limited to, the following:

- · sports books
- lotteries
- bingo
- poker
- sites that provide tips, odds, and handicapping
- · software facilitating online casinos and gambling
- · gambling tutoring online
- gambling related eBooks
- · 'play for fun' gambling or casino games of skill including sites where the primary purpose is 'play for fun' gambling
- · affiliate sites with the primary purpose of driving traffic to online gambling sites

## Hacking and Cracking

# Don't promote hacking and cracking sites.

Advertising is not permitted for the promotion of hacking or cracking and tools that aid in copyright infringement. For example, we do not permit:

- · Sites that provide instructions or equipment to illegally access or tamper with software, servers, or websites
- Sites or products that enable illegal access of cell phones and other communications or content delivery systems/devices
- Mod chips, such as devices that unlock copyright protection
- · Products that descramble cable and satellite signals in order to get free cable services
- . Copied or backed-up version of software, CDs, or DVDs not intended for personal
- Products or services that circumvent digital rights management technologies or technical protection measures for copyrighted works

# Miracle Cures

# Don't promote miracle cures.

Advertising is not permitted for the promotion of miracle cures, such as 'Cure cancer overnight!

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# **Mobile Subscription Services**

#### Mobile subscription sites must display the required service details.

We allow the advertisement of mobile content services only when the site clearly and accurately displays price, subscription, and cancellation information. This includes, but is not limited to, sites that promote downloading ringtones, wallpaper, or text messages for predictions, love life advice, news, personality quizzes, and/or other entertainment services.

If your site promotes mobile content services and requires users to enter personal information such as names or phone numbers, your site must meet the following criteria:

- Prominently display these details on the page where users first enter personal information (such as a name or phone number):
  - The identification of your service as a subscription
  - The price of the service
  - The billing interval (such as per week or once per month)
- On the first page where users enter personal data, provide a prominent opt-in checkbox or other clear mechanism indicating that the user knowingly accepts the price and subscription service. The user should not be able to proceed without opting in.
- Clearly display cancellation information (or a clearly marked link to cancellation instructions) on your ad's landing page, the first page of your site users see after clicking on your ad.

All of the items above should be located in a prominent place on your webpage and should be easy to find, read, and understand.

# Political Advertising

#### Political advertising is allowed.

We permit political advertisements regardless of the political views they represent. Stating disagreement with or campaigning against a candidate for public office, a political party, or public administration is generally permissible.

However, political ads must not include accusations or attacks relating to an individual's personal life, nor can they advocate against a <u>protected group</u>.

If you're soliciting political donations, your ad's landing page must clearly state that the donations are non-tax-deductible.

Political campaigns and candidates with questions about these policies are encouraged to contact our Elections Team at <a href="mailto:elections@google.com">elections@google.com</a>.

#### Prescription Drugs and Related Content

#### The promotion of prescription drugs and related content is restricted.

Google only accepts online pharmacies that are based in the U.S., Canada, the UK, the Republic of Ireland, or Australia.

#### Online pharmacy in the U.S. and Canada

Google AdWords requires all online pharmacy advertisers and affiliates in the U.S. and Canada to be members of the <a href="harmacyChecker">PharmacyChecker</a> Licensed Pharmacy Program. Ads will not run until a valid PharmacyChecker identification number is provided. To be fair to all of our pharmacy advertisers, we make no exceptions.

Additionally, ad campaigns for prescription drugs can only target the U.S., U.S. territories (American Samoa, Guam, Puerto Rico, U.S. Virgin Islands), and/or Canada, these ads will not be displayed in other countries.

Note that pet pharmacies and affiliates advertising pet prescription drugs are also required to be PharmacyChecker approved when targeting the U.S. or Canada.

If you meet the above requirements and want to get started, review Google's online pharmacy qualification process.

#### Online pharmacy in the UK

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Google AdWords requires online pharmacy websites targeting ads to the United Kingdom to target ads only to the UK and to be registered with the Royal Pharmaceutical Society of Great Britain (RPSGB). These ads will not be displayed in other countries. Additionally, ad campaigns for online pharmacies and related services in the UK cannot promote prescription drugs.

## Online pharmacy in the Republic of Ireland

Google AdWords requires online pharmacy websites targeting ads to the Republic of Ireland to target ads only to the Republic of Ireland and to be registered with the Pharmaceutical Society of Ireland (PSI). These ads will not be displayed in other countries. Additionally, ad campaigns for online pharmacies and related services in the Republic of Ireland cannot promote prescription drugs.

#### Online pharmacy in Australia

Google AdWords requires online pharmacy websites targeting ads to Australia to target ads only to Australia and to be registered with the Pharmacy Guild of Australia. These ads will not be displayed in other countries. Additionally, ad campaigns for online pharmacies and related services in Australia cannot promote prescription drugs.

#### Prostitution

#### Don't promote prostitution.

Advertising is not permitted for the promotion of prostitution.

# Scams/Phishing for Personal Information

# Don't use phishing or other scamming tactics.

Advertising is not permitted for sites collecting sensitive personal information or money with fake forms, false claims, or unauthorized use of Google Trademarks. Examples of personal information include email addresses, user names, passwords, and/or payment information.

# Sexual & Adult Content

## Sexual & adult content is restricted.

Advertising is not permitted for the promotion of child pornography, any sexually suggestive content involving children, or other non-consensual sexual material. We also do not permit ads promoting teen pornography or other pornography that describes models who might be underage.

Examples include, but are not limited to, advertisements for 'teen xxx', 'teen porn', and 'school girl' pornography. Please note that Google does not allow this content regardless of whether or not a site complies with government regulations on this kind of advertising.

While approvable adult-related ads can show in some countries, certain countries such as Germany, China, Korea, and India will not show any ads categorized as 'Adult Sexual Content' such as ads with any pornographic content. There may be other <u>effects of family status</u> on how your ads are served.

#### Solicitation of Funds

#### The solicitation of funds is restricted.

If the solicitation of funds is promoted in ad text or occupies a significant portion of your site, the ad's landing page should clearly display tax-exempt status such as 501(c)(3) status in the United States, and should state whether the donations are tax-deductible in full or in part. Other countries need to have an equivalent status (must be a registered charity or not-for-profit organization).

However, for the solicitation of <u>political</u> donations, the ad's landing page must clearly state that the donations are *not* tax-deductible.

#### Template Sites for Ad Networks

#### Don't promote template sites for ad networks such as AdSense.

Advertising is not permitted for the promotion of template sites for ad networks. This

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includes products and services that create template or pre-generated websites solely intended to profit from ads.

# **Tobacco and Cigarettes**

# Don't promote tobacco and cigarettes.

Advertising is not permitted for the promotion of tobacco or tobacco-related products, including cigarettes, cigars, tobacco pipes, and rolling papers.

#### **Traffic Devices**

#### Don't promote illegal traffic devices.

Advertising is not permitted for the promotion of radar jammers, license plate covers, traffic signal changers, and related products.

#### Weapons

#### The promotion of weapons is restricted.

Advertising is not permitted for the promotion of certain weapons, such as firearms, firearm components, ammunition, balisongs (switchblades), butterfly knives, and brass knuckles.

#### Webmaster Guidelines Violations

#### Don't promote unacceptable webmaster techniques.

Advertising is not permitted for the promotion of cloaking, keyword stuffing, search engine spamming, and doorway pages. These unacceptable techniques and services are described in the <u>Google Webmaster Guidelines</u>. Ads and sites promoting such techniques will be disapproved.

We also recommend that you comply with the rest of the Google Webmaster Guidelines which suggest best practices for web development.

#### Link

# Affiliate URLs

# **Affiliate Policy**

We do not allow <u>data entry affiliates</u> to use AdWords advertising, but all other affiliates may participate in the AdWords program. However, we monitor and don't allow the following:

- Redirect URLs: Ads that contain URLs that automatically redirect to the parent company.
- Bridge Pages: Ads for web pages that act as an intermediary, whose sole purpose
  is to link or redirect traffic to the parent company.
- Framing: Ads for web pages that replicate the look and feel of a parent site. Your site should not mirror (be similar or nearly identical in appearance to) your parent company's or any other advertiser's site.

If you're an affiliate and are paid to send traffic to another site or a distributor, the company you're promoting may also require you to comply with their own terms and conditions.

Please note that we'll display only one ad per search query for advertisers sharing the same top-level domain in the display URL. Learn more about when affiliate ads show.

#### **Back Button**

#### Your site must allow a browser's 'Back' button to work.

Links to your website must allow users to enter and exit the landing page easily. Once reaching your site, a user must be able to return to the page where they found and clicked on your ad by clicking once on their Internet browser's 'Back' button.

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#### Destination URL

#### Destination URL must work.

The destination URL is the webpage users will visit when they click on your ad-

- · Your destination URL must work properly.
- The landing page for your ad cannot be under construction. We require your destination URL to link to an actual web page with content relevant to your ad. When your site is under construction or down for maintenance, you must pause your ad group(s).
- Your destination URL must link to a working website and cannot link to an email address or a file. This includes an image, audio, video, or document file that requires an additional program or application to open or run.
- Always check your spelling and symbols to make sure you entered the correct URL for the page you want users to visit.

# Display URL

# Display URL must be accurate.

- Your display URL must accurately reflect the URL of the website you're advertising. It should match the domain of your landing page so that users will know which site they'll be taken to when they click on your ad.
- . The display URL field cannot be used as another line of ad text
- Your display URL must include the domain extension, for example: .com, .net, or .org.
- If your actual destination URL link is too long to use as your display URL, use a shortened version (such as your homepage) that meets the character limit for this field.

Example

Destination URL: http://www.TravelingDog.net/toys.html

Display URL: www.TravelingDog.net

# Landing Page and Site Quality Guidelines

Landing Page and Site Quality Guidelines

As part of our commitment to making AdWords as effective an advertising program as possible, we've outlined some site-building guidelines to better serve our users, advertisers, and publishers. We've found that when our advertisers' sites reflect these guidelines, two important things happen:

- The money you spend on AdWords ads will be more likely to turn into paying customers.
- Users develop a trust in the positive experience provided after clicking on AdWords ads (and this turns in to additional targeted leads for you).

Furthermore, following our site guidelines will help improve your landing page quality score. As a component of your keywords' overall Quality Scores, a high landing page quality score can affect your AdWords account in three ways:

- · Decrease your keywords' minimum bids
- Increase your keyword-targeted ads' position on the content network
- Improve the chances that your placement-targeted ads will win a position on your targeted placements

#### Learn more.

Below we've outlined the three main components of a quality website: relevant and original content, transparency, and navigability. Note that these guidelines aren't exhaustive, nor do they replace any of our <u>Editorial Guidelines</u>, which your ads need to comply with in order for you to advertise with AdWords.

Please be aware that there are some types of sites that we've found provide a consistently poor experience for our users. These sites will receive low landing page quality scores. <u>Learn more</u>.

# Relevant and Original Content

Relevance and originality are two characteristics that define high-quality site content. Here are some pointers on creating content that meets these standards:

Relevance

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- · Users should be able to easily find what your ad promises.
- Link to the page on your site that provides the most useful information about the product or service in your ad. For instance, direct users to the page where they can buy the advertised product, rather than to a page with a description of several products.

# Originality:

- · Feature unique content that can't be found on another site.
- Provide substantial information. If your ad does link to a page consisting mostly of ads or general search results (such as a directory or catalog page), provide additional, unique content.

# Transparency

In order to build trust with users, your site should be explicit in three primary areas: the nature of your business; how your site interacts with a visitor's computer, and how you intend to use a visitor's personal information, if you request it. Here are tips on maximizing your site's transparency:

Your business information.

- Openly share information about your business. Clearly define what your business is or does.
- Honor the deals and offers you promote in your ad.
- Deliver products and services as promised.
- Only charge users for the products and services that they order and successfully receive.
- · Distinguish sponsored links from the rest of your site content.

Your site's interaction with a visitor's computer.

- Avoid altering users' browser behavior or settings (such as back button functionality or browser window size) without first getting their permission.
- If your site automatically installs software, be upfront about the installation and allow for easy removal. Refer to Google's Software Principles for more guidelines.

Visitors' personal information:

- Unless necessary for the product or service that you're offering, don't request personal information.
- If you do request personal information, provide a privacy policy that discloses how the information will be used.
- Give options to limit the use of a user's personal information, such as the ability to opt out of receiving newsletters.
- Allow users to access your site's content without requiring them to register. Or, provide a preview of what users will get by registering.

# Navigability

The key to turning visitors into customers is making it easy for users to find what they're looking for. Here's how:

- Provide a short and easy path for users to purchase or receive the product or offer in your ad.
- Avoid excessive use of pop-ups, pop-unders, and other obtrusive elements throughout your site.
- Make sure that your landing page loads quickly. <u>Learn</u> ways to improve your load time.
- Turn to <u>Google's Webmaster Guidelines</u> for more recommendations, which will improve your site's performance in Google's search results as well.

# Pop-Ups

#### Don't use pop-up windows on your site.

We do not approve destination URLs that generate pop-ups when users enter or leave your landing page.

We consider a pop-up to be any window, regardless of content, that opens in addition to the original window.

This includes pop-unders, timed or intermittent pop-ups, mock system warnings, and pages that automatically initiate a download.

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# Site Security

#### Sites collecting personal information must be secure.

Your site should use a secure server (https://) when collecting personal information and purchase orders from our users such as credit card numbers or tax ID numbers.

#### Software Principles

#### Adhere to Google's Software Principles.

Google strives to provide our users with the most positive experience possible. For this reason we prohibit sites that automatically download software, install spyware, contain a virus, or in any way do not meet our Software Principles.

Please review Google's Software Principles in full.

These guidelines are broad and we acknowledge that the issues are complex and the technology is evolving. As a step towards protecting our users, we created this of standards that we believe our industry should adopt. We reserve the right to disable accounts that we feel do not meet such software standards.

#### Webmaster Guidelines

#### Adhere to Google's Webmaster Guidelines.

All AdWords advertisers are advised to create positive and safe Internet experiences for users. For a list of best practices and recommendations, please take the time to read the Google Webmaster Guidelines.

Failing to adopt these suggestions may result in your site's removal from Google search results and/or a poor AdWords <u>Quality Score</u>. Pay close attention to the 'Quality Guidelines' section which outlines some of the illicit practices that may affect your Quality Score.

Additionally, sites that are misleading, malicious, or that provide a negative user experience may be disapproved or may have a low enough Quality Score to reduce or even stop delivery of your ads. See our <u>Webmaster Guidelines Violations</u> policy.

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